

ALABAMA DEPARTMENT OF REVENUE

Add-Back Form



For the tax period _____, 20____ through _____, 20_____

Taxpayer Name: _____ Taxpayer FEIN: _____

**Information Required by 810-3-35-02, Restrictions on the Deductibility
of Certain Intangible Expenses and Costs and Interest Expenses and Costs**

For tax periods beginning after December 31, 2000, if the taxpayer incurred, directly or indirectly, related member intangible expenses and/or related member interest expenses, provide the information requested below.

NOTE: A separate Schedule AB must be completed for each recipient related member.

- 1 List the name, FEIN and address of the recipient related member who received interest/intangible income from the taxpayer.

NOTE: Related member is defined to include a corporation, association, disregarded entity, or subchapter K entity (Alabama Code section 40-18-1(13) and (15)). Disregarded entities and subchapter K entities are related members separate and apart from their owners.

	Interest Expense	Intangible Expense		
	2A	00	2B	00
2 List the intangible/interest expense amounts that the taxpayer paid to the recipient related member organized by the expense type (interest or intangible). Recipient Related Member Name: _____	3	00		
3 Total Intangible/Interest expenses paid (total lines 2A and 2B). (Enter here and on Form 20C, Schedule A, Line 7a). <i>To determine the exempt amount of intangible/interest expense (Form 20C, Schedule A, Line 7b), complete the applicable section(s) below.</i>				
4 Exemption related to §40-18-35(b)(1)				
A. Jurisdiction(s) where recipient related member income is "subject to tax": _____			4B	00
B. Amount of Line 3 expense not added back			4C	00
C. Recipient Related Member's Corresponding Intangible/Interest Income Allocated to Jurisdiction			4D	00
D. Adjusted Intangible/ Interest Amount. Line 4B minus Line 4C.			4E	%
E. Recipient Related member's total apportionment percentage in the above jurisdiction(s).			4F	00
F. Adjusted interest/intangible amount. Multiply Line 4D by Line 4E.			4G	00
G. Add Line 4C and Line 4F			5A	00
5 Exemption related to §40-18-35(b)(2)				
A. Amount of Line 3 expense not added back.				
B. Attach a statement describing taxpayer circumstances that make the adjustments unreasonable. OR Attach the signed Alternative Adjustment Agreement provided for in Ala. Code Section 40-18-35(b)(2).				
6 Exemption related to §40-18-35(b)(3)	6	00		
Amount of Line 3 expense not added back				
7 Recipient Related Member Receipts by category	7A	00		
A Intangible Receipts	7B	00		
B Interest Receipts	8A	00		
C	8B	00		
	8C	00		
9 A If either Lines 7A or 7B are greater than Lines 8A, 8B, or 8C , Enter zero.	9A	00		
B If Lines 8A, 8B, or 8C are greater than Lines 7A or 7B, Enter amount from Line 6.	9B	00		

NOTE: For Section 6, 7, 8, and 9 the receipts of a disregarded entity/subchapter K entity, which may be a related entity in and unto itself, may not be combined with receipts of its owner for purposes of this schedule.

- 10** In order to qualify for the exemption presented in §40-18-35(b)(3), Line 9B must be greater than zero and an informed corporate officer must sign the statement below, executed under penalty of perjury. With respect to the transaction(s) giving rise to the related member interest/intangible expenses and costs, including both the direct interest/intangible expense transaction(s) between the taxpayer and the related member and any prior organizational restructuring transaction(s) that facilitated such direct interest/intangible expense transactions, tax avoidance (which included the avoidance of a meaningful amount of Alabama tax) was not a principal motivating factor.

Signature _____

Date _____

Title _____

11 Determining Your Exempt Amount

Exempt Amount. Enter the greater of Lines 4G, 5A, 9A or 9B.
(Enter this amount on Form 20C, Schedule A, Line 7b.)

11		00
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THIS FORM MUST BE ATTACHED TO FORM 20C.

Instructions

Establishment of Qualification for §40-18-35(b) Exceptions

Pursuant to §40-18-35(b) and Regulation 810-3-35-.02, related member interest and/or intangible expenses must be added back to the taxpayer's apportionable income, unless the taxpayer "shows" or "establishes" that it satisfies an exception described in §40-18-35(b) and Reg. 810-3-35-.02. If the taxpayer incurred related member intangible and/or interest expenses that were not added back to apportionable income on its Alabama Corporate Income Tax Return, it must establish that it satisfies an exception. The possible exceptions are listed below:

Section 4 – The recipient related member's corresponding item of income was, post-allocation and apportionment, subject to a tax on net income in Alabama or another state or a foreign nation (of which, the recipient related member is a resident) which has in force an income tax treaty with the United States. §40-18-35(b)(1).

Section 5 – The taxpayer establishes that the add-back of interest and/or intangible expenses is unreasonable or the Commissioner of Revenue and the taxpayer have agreed, in writing, to an Alternative Adjustment Agreement. §40-18-35(b)(2).

Section 6 – The recipient related member is a) not primarily engaged in the acquisition, use, licensing, etc. of intangible property or the financing of related entities and b) the underlying transaction(s) giving rise to the related member intangible/interest expenses did not have as a principal business purpose the avoidance of Alabama tax. §40-18-35(b)(3).

General Instructions

- 1. A separate Schedule AB must be completed for each recipient related member.**
 - 2. If a partnership makes interest/intangible payments to a related member, Form AB must be attached to each partner's Form 20C.**
 - 3. For partnership purposes, to determine Lines 2A and 2B, multiply the total interest/intangible payment by the partner's ownership percentage of the partnership.**
- Section 4 – Exemption related to §40-18-35(b)(1)**
- To verify that the related member intangible/interest expense qualifies for the exception in §40-18-35(b)(1), please provide the following:
- A. The jurisdiction(s) where the recipient related member is "subject to tax." The **recipient related member interest/intangible income must be "subject to tax" on a post-allocation and apportionment basis** in these jurisdictions. A document listing the applicable jurisdictions may be attached if the space provided is not sufficient. **Do not include consolidated/combined return jurisdictions where intercompany expenses are eliminated or are offset.**
 - B. The amount of expense the taxpayer paid to the recipient related member, but is not required to add back pursuant to §40-18-35(b)(1).
 - C. If the recipient related member files in a jurisdiction where intangible and/or interest income is allocated rather than apportioned, enter the amount of intangible and/or interest income allocated to this jurisdiction.
 - D. Subtract the intangible/interest income allocated by the recipient related member on Line 4C from the total amount of interest and/or intangible expense paid by the taxpayer on Line 4B.
 - E. Enter the sum of all recipient related member apportionment factors for the jurisdictions listed on Line 4A.
 - F. Multiply the sum of all apportionment factors on Line 4E by the Adjusted Intangible/Interest Amount on Line 4D.
 - G. Add the amount allocated to jurisdiction(s) on Line 4C and the amount apportioned to jurisdiction(s) on Line 4F.

Section 5 – Exemption related to §40-18-35(b)(2)

To establish that the related member intangible/interest expenses qualify for the exception in §40-18-35(b)(2), provide a detailed statement describing the circumstances particular to the taxpayer that make the adjustment unreasonable and attach to this form, OR attach a copy of the signed Alternative Adjustment Agreement between the taxpayer and the Commissioner of Revenue.

Section 6, 7, 8, 9, and 10 – Exemption related to §40-18-35(b)(3)

To establish that the related member intangible/interest expenses qualify for the exception in §40-18-35(b)(3), provide the following:

6. The amount of expense the taxpayer paid to the recipient related member, but is not required to add back pursuant to §40-18-35(b)(3).
7. and 8. The recipient related member's receipts by category.

Example:

Intangible Receipts – (Royalties, Factoring Expenses, etc.)
Interest Receipts
Gross receipts from the sale of tangible property
Rental Income

9. If interest or intangible receipts are greater than any other category of receipts, the recipient related member is

deemed to be “primarily engaged” in the specified activities and is not eligible for the exception in §40-18-35(b)(3). If another category of receipts is greater than interest/intangible receipts, the recipient related member is deemed to be primarily engaged in an activity other than the financing of related members or the management of intangibles and satisfies part of the exception listed in §40-18-35(b)(3).

NOTE: If the taxpayer is not primarily engaged in the financing of related members and the management of intangibles, it qualifies for only part of the exception listed in §40-18-35(b)(3). In order to qualify for the exception in full, the taxpayer must also complete Line 10.

10. To be eligible for the exception listed in §40-18-35(b)(3), an informed corporate officer must affirm that the transaction(s) giving rise to the interest/intangible expenses does not have as a principal purpose tax avoidance (which includes the avoidance of a meaningful amount of Alabama tax).

Section 11 – Determining Your Exempt Amount

To determine the taxpayer's deductible amount of interest/intangible expenses, enter the greater of Line 4G, Line 5A or 9A/9B.

If the taxpayer is required to complete more than one Schedule AB, add the amounts on Line 11 from each Schedule AB. Enter this sum on Form 20C, Schedule A, Line 7b.